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Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

FRIENDS OF YOSEMITE VALLEY,
et al.

Plaintiffs,

v.

GALE NORTON, in her official
capacity as Secretary of the
Interior, et al.,

Defendants.

Case No. CV-F-00-6191 AWI DLB

DEFENDANTS' NOTICE OF MOTION
AND MOTION FOR STAY OF
INJUNCTION PENDING APPEAL

EXPEDITED HEARING REQUESTED

DATE: February 26, 2007
TIME: 1:30 p.m.
PLACE: Courtroom # 2
JUDGE: Hon. Anthony W. Ishii

**DEFENDANTS' NOTICE OF MOTION AND MOTION FOR STAY OF INJUNCTION
PENDING APPEAL**

TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

YOU ARE HEREBY GIVEN NOTICE THAT on February 26, 2007, at 1:30 p.m., or as

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soon thereafter as the Court's schedule permits, before the Honorable Anthony W. Ishii, in Courtroom 2 of the United States District Court for the Eastern District of California, Fresno Division, located at 2500 Tulare Street, Fresno, California 93721, defendants Dirk Kempthorne, Secretary of the Interior, *et al.*, will and hereby do move for a stay pending appeal of the Memorandum Opinion and Order Re Plaintiffs' Motion for Injunction (Docket No. 364, entered on November 3, 2006). On December 28, 2006, the defendants timely filed a Notice of Appeal, to the United States Court of Appeals for the Ninth Circuit from the November 3 Memorandum Opinion and Order and from the underlying Memorandum Opinion and Order Re Cross-Motion for Summary Judgment (Docket No. 307, entered on July 19, 2006).

The defendants specifically move that the Court stay the following two paragraphs of its November 3, 2006 Order:

1. Paragraph 8, which states that "Plaintiffs' request for injunctive relief is HEREBY GRANTED as to the East Yosemite Valley Utilities Improvement Plan and Defendants are HEREBY ENJOINED from proceeding on that project until after the adoption of a valid CMP [comprehensive management plan] for the Merced Wild and Scenic River;" and
2. Paragraph 12, which states that "Plaintiffs' request for injunctive relief is HEREBY GRANTED as to the Yosemite Valley Loop Road with the exception of the portion of the request addressing the repair and replacement of culverts which was previously denied. Defendants are HEREBY ENJOINED from proceeding on any other portion of that project until after the adoption of a valid CMP for the Merced Wild and Scenic River."

The defendants move to stay these two paragraphs of the November 3, 2006 Order until such time as the United States Court of Appeals has entered judgment on the defendants' appeal.

This motion for stay of the injunction pending appeal is made pursuant to Fed. R. Civ. P. 62 (c) and Fed. R. App. P. 8(a) and on the grounds specified in this notice of motion and motion,

the defendants' memorandum in support of this motion, the declarations, exhibits, and documents filed in support of this motion, all pleadings and papers filed in this action, and such other and further evidence as may be presented to the Court at the time of the hearing.

Pursuant to this notice, defendants hereby move for a stay of the injunction pending appeal with respect to ¶¶ 8 and 12 of the Court's November 3, 2006 Memorandum Opinion and Order Re Plaintiffs' Request for Injunction.

Request for Expedited Ruling – Because of the nature of this motion seeking a stay of the pending injunction and the need to seek relief promptly from the Ninth Circuit if this Court denies the motion, the defendants request that the Court rule on this motion at the earliest opportunity. The defendants do not request that the Court hold a hearing on the motion, but are willing to submit the motion to the Court on the papers.

Respectfully Submitted,

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Dated: January 26, 2007